

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

WP(C).No. 22084 of 2007(D)

PETITIONER:

DR.SHEEBA.P.S.,
LECTURER IN CHEMISTRY, DEPARTMENT OF CHEMISTRY,
MALABAR CHRISTIAN COLLEGE, KOZHIKODE.

BY ADV. SRI.P.V.JYOTHI PRASAD

RESPONDENTS:

1. STATE OF KERALA,
REP.THE PRINCIPAL SECRETARY TO THE GOVERNMENT,
HIGHER EDUCATION DEPARTMENT, SECRETARIAT,
TRIVANDRUM.
2. THE DEPUTY DIRECTOR OF COLLEGIATE
EDUCATION, KOZHIKODE.
3. UNIVERSITY OF CALICUT,
REP.REGISTRAR, KOZHIKODE.
4. MALABAR CHRISTIAN COLLEGE,
REP.PRINCIPAL, KOZHIKODE.

BY GOVT.PLEADER SMT.SUDHA.

BY STANDING COUNSEL SRILP.C.SASIDHARAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03/08/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

Dated this the 3rd day of August, 2007.

J U D G M E N T

Petitioner claims that she was appointed as Lecturer in respondent No.4 college initially against a leave vacancy in the year 1996. The above appointment was approved by the University as could be seen from Ext.P1. Later, petitioner was again appointed as Lecturer in the Department of Chemistry in yet another leave vacancy of Sri.Koshy Kunju Malayil with effect from January 3, 2000. Ext.P2 is stated to be the order of appointment. It is the case of the petitioner that the management was empowered and authorised to appoint/retain her in service. Anyhow, the fact remains that the University of Calicut had approved the appointment of the petitioner by Ext.P3 order dated March 28, 2000. However, petitioner was not paid salary for the period during which she worked pursuant to her appointment under Ext.P2. At that time her request was turned down on the ground that her appointment was not against a regular vacancy. Ext.P6 is the reply given by respondent No.1 stating that her request for salary will be considered after excess teachers were re-deployed.

2. It is contended by the petitioner that she was appointed in a regular vacancy that arose in the college consequent on the retirement of Sri.M.P.Sreedharan Nair with effect from June 1, 2001. Copy of the appointment order is on record as Ext.P8. The University had approved the above appointment as is revealed from Ext.P9 order dated December 5, 2006. Grievance of the petitioner is

that she is being denied salary despite approval of her appointment by the University.

3. Learned Government Pleader after getting instructions submits that salary has been denied because of two reasons:

(a) The initial appointment of the petitioner was against a leave vacancy.

(b) As against the sanctioned post of 5 teachers in the Department of Chemistry in the college, 11 teachers were working at the time when the petitioner was appointed. The workload that was assessed at that time was only 88 hours. M.Sc was sanctioned in the college on condition that no additional financial burden would be fastened on the Government. Even at that time the workload was only 65 hours and eligible posts were only 4. Learned Government Pleader further submits that the refusal on the part of respondent No.2 to disburse salary to the petitioner was therefore justified.

4. In my view, the stand taken by respondent No.2 cannot be justified, particularly in view of the decision rendered by a Division Bench of this Court in WA.No.940/2007 and connected cases. If the Directorate or respondent No.2 for that matter has got reservation about the correctness of the order of approval passed by the University, the matter has to be taken up by respondent No.2 before the University as provided under the relevant statute of the University and the provisions contained in the Act.

Therefore the writ petition is disposed of with a direction to respondent No.2 to take up the matter before the University and get a

decision thereon in the light of the statutory provisions and also in terms of the directions contained in the judgment of the Division Bench referred to above. This shall be done as expeditiously as possible at any rate within two months from the date of receipt of a copy of this judgment. If respondent No.2 fails to get the issue concluded within the time frame mentioned above, it shall be ensured that salary and allowances are released to the petitioner forthwith.

A.K. Basheer
Judge.

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